

REMARKS

This is intended as a full and complete response to the Office Action dated September 3, 2004, having a shortened statutory period for response set to expire on December 3, 2004.

According to the Office Action, Claims 1-18 are rejected in the Application.

Claims 2 and 18 are cancelled from the Application.

Claims 1 and 13-15 are amended in the Application.

Claims 1 and 3-17 are pending in the Application.

I. Claims Rejection – 35 USC 112

The Office Action rejected Claims 1-18 under 35 USC 112 for failing to point out particularly and claim distinctly the subject matter of the application. The Office Action rejected Claim 18 under 35 USC 112 for failing to comply with the enablement requirement. Applicant hereby cancels Claim 18 from the Application.

Applicant amends independent Claim 1 to include the subject matter of Claim 2 so that Claim 1 includes a protein as a component. Since Claims 3-17 are dependent upon Claim 1, Applicant believes the amendment overcomes the 35 USC 112 rejection.

Applicant amended Claims 13-14 to correct a clerical error by changing the term "beverage" to the term "bar."

Applicant amended Claim 15 to remove the term "further." Claim 15 narrows the range of the digestive enzyme in Claim 1.

Applicant believes no new matter has been added with the amendments. Reconsideration of the Claims is respectfully requested in light of these remarks and amendments.

II. Double Patenting

The Office Action provisionally rejected Claims 1-17 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-37 of co-pending US Patent Application Serial No 10/725,610.

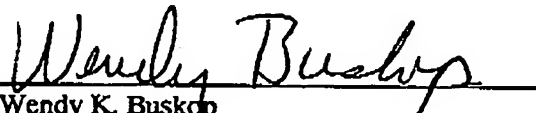
The Office Action provisionally rejected Claims 1-17 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 21-22 of co-pending US Patent Application Serial No 10/725,611.

Applicant hereby submits terminal disclaimers to overcome the provisional double patenting obviousness-type rejections cited in the Office Action. The terminal disclaimers with associated fees are located in Attachment A.

Reconsideration of this Application is respectfully requested

Respectfully submitted,

Date: Nov 11, 2004


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Enclosures – Attachment A – Terminal Disclaimers and Authorization to Pay Fees